

Bail Slip

That the appellant/Accused namely P. Lakshmanan, S/o. Palaniappa Gounder, was released on bail by the order dated 29.04.2011 made in MP.No.1 of 2011 in CrI.R.C.No.701 of 2011.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.701 of 2011

P.Lakshmanan
S/o.Palaniappa Gounder

... Petitioner/Accused

Vs.

J.Pasupathy
S/o.T.L.Jaganathan

... Respondent/Complainant

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the judgment of learned Additional District and Sessions Judge, Namakkal, passed in C.A.No.81 of 2009 on 14.03.2011 modifying the judgment of learned Judicial Magistrate, Thiruchengode, passed in C.C.No.16 of 2002 on 29.09.2009.

For Petitioner : Mr.A.Gouthaman

For Respondent : Mr.M.R.Jothimanian

O R D E R

This revision arises against the judgment of learned Additional District and Sessions Judge, Namakkal, passed in C.A.No.81 of 2009 on 14.03.2011 modifying the judgment dated 29.09.2009 passed by learned Judicial Magistrate, Thiruchengode, in C.C.No.16 of 2002.

2. Respondent/complainant moved prosecution informing that the petitioner borrowed a sum of Rs.50,000/- from him and a cheque bearing No.419065 dated 20.04.2001 drawn on Karur Vysya Bank, Thiruchengode, stood issued to him by petitioner towards repayment of borrowing, which upon

presentation, returned unpaid for the reason "insufficient funds". Respondent/complainant caused statutory notice and following the procedure envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been filed.

3. Before the trial Court, respondent examined himself and two others and marked seven exhibits. Four witnesses have been examined on behalf of the defence and no exhibits marked.

4. On appreciation of materials before it, trial Court, under judgment dated 29.09.2009, convicted petitioner and sentenced him to 6 months S.I. and he was directed to pay fine of Rs.3,000/- to respondent/accused. There against, the respondent/accused preferred C.A.No.81 of 2009 on the file of learned Additional District and Sessions Judge, Namakkal. Appellate Court, under judgment dated 14.03.2011, while confirming the finding of conviction, modified the sentence from Six months Simple Imprisonment to three months S.I. There against, the present revision has been filed.

5. Heard learned counsel for petitioner and learned counsel for respondent.

6. While the trial Court has found that the petitioner, respondent and also DW-4 were partners of a firm dealing with tyres, the Appellate Court has found an admission there regards in the evidence of PW-1/Respondent.

7. It is the contention of learned counsel for petitioner that the firm ran into losses, monies were due thereto and hence, at the stage of closure of business, PW-1/respondent has insisted on petitioner issuing a cheque for Rs.50,000/- and collecting the outstanding dues and as petitioner refused to do so, the respondent moved the police and the cheque giving rise to the action was coerced by the petitioner at the police station. Such contention of learned counsel for petitioner, finds confirmation in the evidence of another partner of the firm, DW-4. Defence evidence is also required to be duly appreciated.

8. When we find that a partnership business was conducted between petitioner, respondent and DW-4 and both petitioner as also DW-4 have spoken to the manner in which the cheque came to be issued to the respondent/complainant, there is every possibility of the defence case being true. The benefit of doubt must be afforded to the petitioner/accused.

9. The Criminal Revision Case is allowed. The judgment of learned learned Additional District and Sessions Judge, Namakkal, passed in C.A.No.81 of 2009 on 14.03.2011 modifying the judgment of learned Judicial Magistrate, Thiruchengode, passed in C.C.No.16 of 2002 on 29.09.2009, is set aside. Petitioner/accused is acquitted of all charges. Fine, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Additional District and Sessions Judge,
Namakkal.

2.The Judicial Magistrate,
Thiruchengode.

3. The Chief Judicial Magistrate, Namakkal.

+ 1 cc to Mr.R. Nalliyappan, Advocate SR.60073

Cr1.R.C.No.701 of 2011

NM(CO)
EU(22/11/2017)

सत्यमेव जयते

WEB COPY